

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 28 2021

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

RICHARD K. MONIZ,

Defendant-Appellant.

No. 21-10029

D.C. No. 1:09-cr-00191-JMS-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
J. Michael Seabright, District Judge, Presiding

Submitted July 19, 2021**

Before: SCHROEDER, SILVERMAN, and MURGUIA, Circuit Judges.

Richard K. Moniz appeals from the district court's judgment and challenges the 12-month sentence imposed upon revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Moniz contends that the district court violated the Eighth Amendment's

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Accordingly, Moniz's motion to expedite submission without oral argument is granted.

prohibition against cruel and unusual punishment by relying in part on his mental illness in selecting the 12-month sentence. We review de novo whether a sentence violates the Eighth Amendment. *See United States v. Meiners*, 485 F.3d 1211, 1212 (9th Cir. 2007). The record does not support Moniz's claim that the district court imposed the within-Guidelines sentence due to his mental illness. Rather, the district court appropriately considered Moniz's performance on supervised release and imposed the sentence as a sanction for his significant breach of the court's trust. *See United States v. Simtob*, 485 F.3d 1058, 1062 (9th Cir. 2007).

AFFIRMED.